



UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 12

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FEB 11 2003

In re Application of	:	
Geoffrey McCabe	:	
Application No.: 09/830,279	:	DECISION ON PETITION
Filing Date: October 23, 2001	:	TO WITHDRAW THE
For: TUNING APPARATUS FOR	:	HOLDING OF ABANDONMENT
STRINGED INSTRUMENT	:	

This is a decision on the letter filed via facsimile transmission on November 5, 2002 requesting that the above-noted application be revived. It is being treated as a petition to withdraw the holding of abandonment. There is no fee for this petition. The petition was supplemented with papers filed via facsimile transmission on February 3, 2003.

The petition is **GRANTED**.

BACKGROUND

This application is a national stage entry in the United States of PCT/US98/20376. On April 23, 2001, applicant filed, *inter alia*, a "TRANSMITTAL LETTER TO THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US) CONCERNING A FILING UNDER 35 U.S.C. 371" (hereinafter "transmittal") and a "DECLARATION FOR UTILITY OR DESIGN PATENT APPLICATION (37 CFR 1.63)" (hereinafter "declaration"). The "transmittal" requested that all correspondence be sent to Geoffrey L. McCabe at a Hollywood, California address (hereinafter "California address"). The "declaration" requested that all correspondence be directed to Dann, Dorfman, Herrell and Skillman, P.C. at a Philadelphia, Pennsylvania address (hereinafter "Pennsylvania address").

On May 3, 2001, just after the present application was initially submitted, the correspondence address was set to the "California address." On December 6, 2001, after all the 35 U.S.C. 371 requirements were met, the correspondence address was changed to the "Pennsylvania address."

On August 29, 2001, a "Notification of Missing Requirements . . ." was mailed to the "California address." A response to the "Notification of Missing Requirements . . ." was received at the PTO on October 23, 2001. On March 28, 2002, an Office action was mailed to the "Pennsylvania address." After no response was received to the Office action, a Notice of Abandonment was mailed to the "Pennsylvania address" on October 1, 2002. The Notice of Abandonment indicated that the application was abandoned in view of applicant's failure to timely file a proper reply to the Office action mailed on March 28, 2002.

REGULATIONS

The Manual Of Patent Examining Procedure (MPEP) section 403 states:

Where more than one correspondence address is specified, the Office will determine which one to establish as the correspondence address. This is intended to cover the situation where an application is submitted with multiple addresses, such as one correspondence address being given in the application transmittal letter, and a different one in an accompanying 37 CFR 1.63 oath or declaration, or other similar situations. The determination of which of the correspondence addresses to use will be made on a case-by-case basis, considering such factors as the earliest correspondence address submitted, and the first listed correspondence address if conflicting addresses appear in the same declaration.

OPINION

In the instant application, after the decision was made to use the "California address" as the correspondence address, there was no reason for changing the correspondence address to the "Pennsylvania address." On the contrary, after a response was received to the "Notification of Missing Requirements . . ." sent to the "California address," it should have been clear that the "California address" was a valid correspondence address and should have remained the correspondence address.

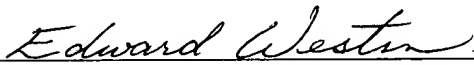
CONCLUSION

In view of the above and the statements given by applicant in the letter filed via facsimile transmission on February 3, 2003, the "Notice of Abandonment" mailed on October 1, 2002 is vacated. The Office action dated March 28, 2002 will be remailed to the "California address." A new shortened statutory period for response to the remailed Office action will be set to expire three months from the date of remailing.

On November 5, 2002, applicant filed, together with the above-noted petition, a "Revocation of Power of Attorney . . ." which included a request to change the correspondence address to the "California address." Although the application number listed on the revocation was 07/607,458, someone changed it to 09/830,279. On November 7, 2002, the correspondence address was changed back to the "California address." The copies of the "Change of Correspondence Address" and the "Petition for Revival . . ." filed with the papers of February 3, 2003 have been put into the application file but have been indicated to be moot in light of the papers filed on November 5, 2002 and this decision.

A copy of the "Notice of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495" which was sent to the "Philadelphia address" on December 6, 2001 is being sent along with this decision since applicant apparently has never received the notice.

Any inquiry concerning this decision should be directed to Edward Westin at (703) 308-4823.


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